EXR Copy

P0359.L01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#7/ Letter
R. Morgan
3/1/93

Applicant: Thomas J. Campana, Jr., et al.
Serial No.: 07/702,938 Art Unit: 2601
Filed: May 20, 1991 Exm:
For: SYSTEM FOR INTERCONNECTING ELECTRONIC MAIL SYSTEMS BY RF COMMUNICATIONS

Notice of Ongoing Litigation

Commissioner of Patents and Trademarks
Attn: Robert Gray
Group Director
Group 260
Washington, D.C. 20231

RECEIVED
FEB 18 1993
GROUP 260

Dear Sir:

The enclosed photocopy is being submitted as proof of ongoing litigation in the above identified pending patent application to establish the actual ownership of the subject matter of this invention.

In light of the foregoing situation, it is respectfully requested that access to this file be restricted to the following individuals and their authorized representatives pending the conclusion of the litigation.

Thomas J. Campana Jr., et al.	The inventors of record
William H. Wright	The attorney of record
Donald E. Stout	The assignee of record

Given the potential commercial value of the subject matter of this invention, it is imperative that the contents of this application be maintained in the strictest confidence until the matter of actual ownership of the subject invention has been finally resolved.

Respectfully submitted,

By William H. Wright
William H. Wright
Reg. No. 26,424

February 16, 1993
HENDERSON & STURM
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COMPUTER LEASCO, INC.,

Plaintiff,

Case No. 90-CV-60007-AA

v.

Hon. George La Plata

TELEFIND CORPORATION,

Defendant.

_______________________________/

HYMAN AND LIPPITT, P.C.
By: Norman L. Lippitt (P16716)
H. Joel Newman (P38459)
Attorneys for Plaintiff
185 Oakland Avenue, Suite 300
Birmingham, MI 48009
(313) 646-8292

SCHADEN, WILSON, HEIDMAN,
LAMPERT & KATZMAN
By: Bruce Wilson (P22392)
Attorneys for Co-Counsel for
Plaintiff
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_______________________________/

A TRUE COPY
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
BY ______ DEPUTY CLERK

ORDER

At a session of said Court held in the U.S. Courthouse, in the City of Detroit, County of Wayne and State of Michigan on FEB 05 1993

PRESENT: HON. JUDGE GEORGE LA PLATA
DISTRICT COURT JUDGE

THERE CAME ON FOR HEARING this day the Plaintiff's Renewed Motion For Supplementary Relief In Aid Of Execution. Upon consideration of the premises and the proofs offered in support of the Motion, the Court finds that, the bankruptcy case of Defendant having now been dismissed with prejudice, the Motion is well taken and should be granted in its entirety. Accordingly, it is hereby:

ORDERED that the Plaintiff's said Motion For Supplementary Relief In Aid Of Execution is granted in its entirety including, without limitation:

1. The intellectual properties including, without limitation, all trademarks, service marks, copyrights, inventions, trade secrets, patents and patent applications as described in Exhibit "A" and incorporated herein by reference are awarded to Plaintiff in which Defendant as of the date of this Order has any ownership interest. Said intellectual properties specifically includes, without limitation all technologies, inventions, patents or patent applications, whether conceived or pending in the United States or any other country, conceived, invented or developed by Defendant's employee Thomas J. Campana, Jr., all in accordance with the Agreement of August 14, 1987 between Defendant and the said Thomas J. Campana, Jr. and a subsequent Confidentiality Agreement between Defendant and the said Thomas J. Campana of August 26, 1988.

2. Plaintiff is now entitled to, and is hereby awarded ownership and title, of all such general intangible properties, including the said intellectual properties to the extent of Defendant's ownership as of the date of this Order.

3. The Plaintiff is hereby authorized to do all things reasonable and necessary in recording its title and ownership in the said intellectual properties, including the execution of any documents required to be filed in the United States Patent and Trademark Office or elsewhere. Further, any claims by Defendants to ownership of the said intellectual properties are hereby extinguished.

4. This Order does not in any way adjudicate the legal rights of others with respect to any third party claiming a prior or superior right to any interest in the property described in this Order.

5. This Order shall not take effect until FEB 12 1993, 1993 on which day it shall become automatically effective.

SO ORDERED this FEB 05 1993 day of February, 1993.

JUDGE GEORGE LA PLATA

United States District Judge

Ex. A

07702938.052091

PENDING APPLICATIONS

NETWORK ENHANCEMENTS

07/850,275

LOW POWER INFORMATION TRANSMISSION SYSTEM HAVING HIGH INFORMATION TRANSMISSION AND LOW ERROR RATES AND METHOD OF OPERATION

This patent application describes the operation of the encoding mechanism which encodes the high-speed hybrid wireless protocol. It describes how the encoding mechanism encodes the protocol and delivers messages to the radio infrastructure on a dedicated or non-dedicated port basis as well as in either an analog or digital signaling format.

780.30998X00

LOW POWER INFORMATION TRANSMISSION AND RECEIVING SYSTEM HAVING HIGH INFORMATION AND LOW ERROR RATES AND METHOD OF OPERATION

This patent application describes the operation of the overall system when the new high-speed protocol is utilized to accommodate high-speed messaging. It describes the operation of the encoding equipment and the decoding electronics in the receiver. It also describes the protocol in detail, of how the messaging data is encoded for transmission through the wireless infrastructure and how the data is received and decoded by the receiving electronics.

07/702,939

ELECTRONIC MAIL SYSTEM WITH RF COMMUNICATIONS TO MOBILE PROCESSORS

This patent application describes the operation of an E-mail gateway switch that permits mail networks to interface directly to the wireless network equipment. It provides a low cost solution to provide the necessary translation and formatting to make the various electronic E-mail systems one hundred percent compatible with the carrier's wireless infrastructure.

07/702,319

ELECTRONIC MAIL SYSTEM WITH RF COMMUNICATIONS TO MOBILE PROCESSORS ORIGINATING FROM OUTSIDE OF THE ELECTRONIC MAIL SYSTEM

This patent application describes a non E-mail gateway switch that enables any user of a processor to access the wireless network to originate an E-mail message without needing to subscribe to an E-mail service. This general purpose gateway switch permits non E-mail users to originate a wireless E- mail message that may be delivered to an E-mail user or non E-mail user. The recipients of the E-mail message will have the message displayed in their particular E-mail format (e.g., AT&T E-mail will be displayed in an AT&T E-mail format).

RECEIVER RELATED PATENTS

4,849,750

July 18, 1989

PAGING RECEIVER WITH DYNAMICALLY PROGRAMMED CHANNEL FREQUENCIES AND FUNCTIONALITY

This patent pertains to the wireless receiver and its ability to have the operating frequency and the functionality dynamically programmable by the radio system. This permits the network equipments to automatically download new operating frequencies when the receiver is on the traveling mode. The receiver can also be used on an exclusively local basis when only one operating frequency in a metropolitan area is utilized. It also permits a private paging system (e.g. hospital) to dynamically shift receivers to a city wide system to leave messages.

4,851,830

July 25, 1989

PAGING RECEIVER WITH CONTINUOUSLY TUNABLE ANTENNA

This patent is the first of three patents that describe the receivers ability to tune the receiving antenna to optimize performance on the receiving frequency. It is critical to the operation of a frequency agile product in order to permit the receiver to receive any radio frequency over a broad range of operating frequencies. Paging receivers by design, typically have a receiving antenna that is located internally with the operating electronics. The antenna typically operates at a gain of less than unity and the antenna tuning is critical to maximize the receivers performance.

4,853,688

August 1, 1989

PAGING RECEIVER DISPLAYING PLACE OF ORIGIN OF PAGES

This patent pertains to the unique feature that allows the message recipient to determine the place of origin of the message. It indicates whether it is local or long distance in nature and also any information pertaining to special functions that the message may contain.

4,857,915

August 15, 1989

PAGING RECEIVER WITH PAGING RECEIVER IDENTIFICATION CODE DIGITS TRANSMITTED IN ORDER OF INCREASING SIGNIFICANCE

This patent describes the significant power savings to the receiver by sending the identification code digits in reverse order. This eliminates the problem that is typically found in the first 3 or 4 digits of the ID code for all of the pagers within a system are the same. By sending the ID code in reverse only one-tenth of the pagers will wake up to hear the first digit of the receivers eight digit identification code.

4,935,732

June 19, 1990

PAGING RECEIVER WITH PROGRAMMABLE AREAS OF RECEPTION

This patent pertains to the receiving dynamics of the paging receiver. It describes the hierarchy of having multiple scan memories with dynamically programmable receiving channels. It also describes the programming process necessary to permit the receiver to travel to and from local, regional and national destinations.

5,077,834

December 31, 1991

PAGING RECEIVER WITH CONTINUOUSLY TUNABLE ANTENNA AND RF AMPLIFIER

This patent is an extension of patent 5,012,235 and further details the dynamic processor controlled antenna tuning process that will permit operation from 100 MHz to 1.2 gigahertz. It describes the pre-setting of the antenna control processor by information received from the main processor when the PLL electronics are programmed for the operating frequency. The fine tuning of the antenna and RF electronics is accomplished by measuring an RSSI signal from the receivers RF and fine tuning the antenna electronics in a step fashion to optimize the reception.

The necessary dynamics to overcome loop oscillations are also described in this patent. Once the antenna and RF electronics are optimized the tuning information is stored in the antenna controlled processor memory so that each time a sample is taken each of the operating frequencies the antenna can be preset to the previous optimized tuning settings.

4,9128,100

May 22. 1990

PAGING RECEIVER FOR RECEIVING PAGES FROM ANALOG OR DIGITAL PAGING TRANSMITTERS

This patent describes the paging receivers ability to receive information from the radio infrastructure in either analog or digital paging format. This permits the receiver to be 100% compatible with both analog and digital radio messaging systems. Globally approximately 40% of the radio transmitting infrastructure is analog in nature. Unlike most numeric and alpha numeric pagers that are exclusively digital, the described receiver can receive information from both a digital and/or analog transmitting system. This functionality is completely hybrid and the receiver can actually receive a message in digital format followed immediately by a message in analog format on the same or other channels as needed.

4,978,944

December 18, 1990

PAGING RECEIVER WITH DYNAMICALLY PROGRAMMED CHANNEL FREQUENCIES

This patent describes the receivers ability to be dynamically programmed with operating frequencies that are transmitted by the radio infrastructure. This permits the ability of the receiver to contain multiple frequencies in multiple radio bands and to be able to scan and sample each of those frequencies when in the travel mode or under certain circumstances be able to receive one or more frequencies in a local environment.

5,039,984

August 13, 1991

110658 ✓

PAGING RECEIVER WITH PROGRAMMABLE AREAS OF RECEPTION

This patent pertains to the receivers ability to accommodate and operate within multiple service areas. This patent describes a command process that immediately follows the identification of the receiver to be able to change its configuration to receive information in one or more areas of reception. This eliminates utilizing multiple ID codes for multiple functions as is currently used in the industry.

5,012,235

April 30, 1991

PAGING RECEIVER WITH CONTINUOUSLY TUNABLE ANTENNA AND RF AMPLIFIER

This patent and the patent that immediately follows is an extension of the dynamic and antenna RF amplifier tuning technologies that would permit the receiver to be able to continuously tune the antenna and RF electronics over a very wide frequency spectrum. It is anticipated that ultimately the receiver will be able to receive any operating frequency from approximately 100 MHz to 1.2 gigahertz. In order to have this extreme wide operating band, it is necessary to have an antenna control microprocessor and sophisticated signal detection electronics to permit the precise tuning of the antenna and RF electronics.

NETWORK RELATED PATENTS

4,866,431

September 12, 1989

PAGING SYSTEM HUB SWITCH

This patent describes the paging system Hub switch which is the highest level of three levels of network switching. It describes the various tiers of redundancy and the operation of receiving packets of information with multiple messages, sorting, and repacketizing for retransmission to other Hubs in a north, south, east or west direction or Lata Collector switches within its geographical jurisdiction.

4,868,558

September 19, 1989

PAGING SYSTEM LATA SWITCH

This patent describes the paging system networks Lata switch. It is the second tier of network switching and is responsible for receiving messages from Local Collectors that are located within its Lata jurisdiction or internationally within city code jurisdiction. It is responsible for receiving X.25 packets with multiple messages sorting, repacketizing, and delivering regional messages to Local Collectors within its jurisdiction. It also has the ability to receive and/or send national messages from and to the Hub level of network for the receipt or the initiation of long distance messages.

4,868,562

September 19, 1989

PAGING SYSTEM (DESCRIBES OVERALL NETWORK)

This patent describes the overall operation of all levels of the network. It describes each switch type, its functionality and its contribution to the overall operation of the network. It also describes the multiple tiers and levels of redundancy in the event of a network outage or a catastrophic switch failure.

4,868,860

September 19, 1989

PAGING SYSTEM FOR ENTERING PAGES BY LOCAL TELEPHONE CALL

This patent describes message entry nationally or internationally by the originator of the message only placing a local telephone call. In the United States this call would be placed or originated by accessing a 950 access code. The originator of the message does not need to know the whereabouts or location of the paging recipient and needs only to dial a local number, enter the ID code of the recipient, and the message. The network will automatically route via the ID code the message to the recipients home jurisdiction for either transmission on the home system or in the event that the recipient has traveled to the new service destination.

4,870,410

September 26, 1989

PAGING SYSTEM LOCAL SWITCH

This patent describes the operation of the third level of switching which is called the Paging System Local Collector Switch. It is the switch that services a threefold purpose and is typically co-located at the serving radio infrastructures site. The Local Collector acts as an ordinary paging terminal having the various types of telephone trunk interfaces necessary to permit local numeric and alpha numeric

messages to be received from the local telephone network. The Local Collector switch acts as the interface to the radio transmitting infrastructure either on a stand-alone basis or a co-existing with other paging terminal equipments to gain access to the radio transmitters. The Local Collector switch encodes the proprietary protocol that is utilized for the wireless receiver. The Local Collector switch encodes the proprietary protocol that is utilized for the wireless receiver. The Local Collector switch also acts as a recipient and originator of network messages to the Lata Collector level of the network.

These messages are packetized with multiple messages with multiple ID codes and multiple destinations. The Local Collector switch also serves to store the ten thousand subscriber files that reside within the local marketplace. This is the only location that the local subscribers data base resides at. This distributed subscriber base emulates that of telephony equipment and permits a starting capacity of 100 million subscribers globally.

4,875,039

October 17, 1989

PAGING SYSTEM WITH TRANSMISSION PROTOCOL COMPATIBLE WITH ANALOG AND DIGITAL TRANSMITTERS

This patent describes the paging system operation with proprietary protocol encoded in either an analog or a digital fashion. This permits the Local Collector to be interfaced to either an exclusively digital, or, exclusively analog or a hybrid digital/analog radio transmitting infrastructure. In the event that the Local Collector accommodates one or more radio channels it may be that one radio channel is exclusively analog in operation and the second channel is exclusively digital. The hybrid encoding process permits the operation in either format.

4,876.538

October 24, 1989

PAGING SYSTEM SUB-LOCAL SWITCH

This patent addresses the operation of the paging system sub-local paging switch. The operation of the sub-local switch directly addresses the operation between private low power paging systems such as those utilized in private businesses or municipalities or hospitals and permits those subscribers who readily move from sub-local or private systems to a city wide, regional, or national radio infrastructure. This eliminates the necessity for a subscriber on a private paging channel to exchange pagers when off duty and in the local paging systems jurisdiction channel.

There is no need to exchange pagers when traveling regionally, nationally, or internationally. The same receiver can be utilized within the private paging system or any other radio operating frequency for traveling purposes.

4,878,051

October 31, 1989

PAGING SYSTEM WITH COMMANDS FOR CHANGING FUNCTIONALITY OF A PAGING RECEIVER

This patent describes the paging network equipments ability to encode specific commands through a wireless receiver to change its functionality. Unlike other paging protocols that typically require multiple addresses to be assigned to a paging receiver to permit multiple functionality. The structure of this system utilizes the same ID code followed by a command strucnure that can change the functionality of the receiver. This eliminates the necessity to have multiple addresses assigned to the wireless receiver and maintains the integrity of the 100 million subscriber system capacity.

4,881,073

November 14, 1989

PAGING SYSTEM WITH DYNAMICALLY PROGRAMMABLE RECEPTION FREQUENCIES

This patent describes the mechanics as to how the network equipment dynamically programs the wireless receiver to operate on one or more frequencies. It describes the subscriber programming process that is voice prompted to permit the subscriber to travel regionally, nationally, or internationally. By the entry of country code/area codes or entry codes/city codes when traveling internationally. This patent describes how the country/area codes are looked up in a resident table within the sub-local or Local Collector switches to permit the new operating frequency information to be found and forwarded to the wireless receiver.

This process is dynamic and the paging recipient can reprogram to new service areas by initiating a "local call only" at any location. The network equipment will automatically route the reprogramming message to the subscribers home switch, update the subscribers file with the new travel information, and forward the new operating frequencies to the subscribers wireless receivers.

5,045,850

September 3, 1991

PAGING SYSTEM WITH CENTRALIZED PAGE SOURCE AND DISTRIBUTED PAGE SOURCES

This patent describes the overall operation of the paging system network equipments to permit messages to be entered either locally at the subscribers home destination or from the various entry points that reside at both Local, Lata, and Hub switches.

5,047,764

September 10, 1991

PAGING SYSTEM WITH DYNAMICALLY PROGRAMMABLE RECEPTION FREQUENCIES

This patent is an extension of a previously described patent that describes the further evolution of the dynamic reprogramming frequency process that is needed for paging subscribers who wish to receive messages while in the travel mode.

5,045,850

September 3, 1991

PAGING SYSTEM WITH CENTRALIZED PAGE SOURCE AND DISTRIBUTED PAGE SOURCES

This patent is an extension of a previously described patent that describes the all entry message process that permits message originators to enter messages locally or from any other node of the network equipment. These nodes include the sub-local, Lata, a foreign Local Collector switch, or a Hub switch. It describes how the network equipments can distribute the message to one or more destinations to insure that the paging recipient receives the message with minimal reprogramming effort.

TELEFIND U.S. CASES

	Attorney Docket	U.S. Ser. No.	U.S. Fil. Date	U.S. Patent No.	Issue Date
1.	006.25281X00	110,512	10/20/87	4,928,100	5/22/90
2.	006.25302X00	110,664	10/20/87	4,849,750	7/18/89
.	006.25302CX1	380,382	7/18/89	4,978,944	12/18/90
	006.25302CX2	597,350	11/1/90		
	006.25303X00	110,511	10/20/87	4,857,915	8/15/89
	006.25304X00	110,522	10/20/87	4,853,688	8/1/89
	006.25305X00	110,514	10/20/87	4,851,830	7/25/89
.	006.25305PX1	381,527	7/18/89	Not. of Allow.	2/8/91
.	006.25328X00	110,658	10/20/87	(Rule 62 Cont. Filed)	
10.	006.25328CX1	355,851	5/18/89	4,935,732	6/19/90
11.	006.25328CX2	464,340	1/11/90	Issue Fee Pd.	6/4/91
12.	006.25328CX3	662,616	2/28/91		
13.	006.25437X00	158,984	2/22/88	4,868,562	9/19/89
14.	006.25437PX1	409,390	9/19/89		
15.	006.25437CP2	464,675	1/16/90		
16.	006.25437PP3	465,894	1/16/90		
17.	006.25437CP4	464,680	1/16/90		
18.	006.25642X00	158,716	2/22/88	4,870,410	9/26/89
19.	006.25643X00	158,937	2/22/88	4,868,558	9/19/89
20.	006.25644X00	158,584	2/22/88	4,866,431	9/12/89
21.	006.25645X00	158,931	2/22/88	4,881,073	11/14/89
22.	006.25645PX1	429,615	10/31/89		
23.	006.25646X00	158,982	2/22/88	4,878,051	10/31/89

TELEFIND U.S. CASES (Cont'd.)

	Attorney Docket	U.S. Ser. No.	U.S. Fil. Date	U.S. Patent No.	Issue Date
24.	006.25646PX1	429,541	10/31/89		
25.	006.25647X00	158,983	2/22/88	4,868,860	9/19/89
26.	006.25647PX1	409,605	9/19/89		
27.	006.25648X00	158,981	2/22/88	4,875,039	10/17/89
8.	006.25649X00	158,950	2/22/88	4,876,538	10/24/89
9.	006.26912X00	329,543	3/28/89	5,012,235	4/30/91
0.	006.26912PX1	381,483	7/18/89	{Case Issuing 9/3/91}	
1.	006.28299X00	456,742	12/26/89	{Case Issuing 9/3/91}	

TELEFUND CANADIAN CASES

	Canadian Ser No.	Canadian Fil. Date	Canadian Patent No.	Issue Date
1.	580,525	10/18/88		
2.	580,528	10/18/88		
3.	580,522	10/18/88		
4.	580,516	10/18/88		
5.	580,519	10/18/88		
6.	580,529	10/18/88		
7.	580,523	10/18/88		
8.	580,517	10/18/88		
9.	580,521	10/18/88		
10.	580,518	10/18/88		
11.	580,524	10/18/88		
12.	580,527	10/18/88		
13.	580,520	10/18/88		
14.	580,526	10/18/88		
15.	58 ,530	10/18/88		

MM5405 MM103

TELELEND PATENT COOPERATION TREATY CASES

	PCT Ser. No.	PCT Fil. Date	PCT Patent No.	Int'l Public. Date
1.	PCT/US88/03627	10/18/88	WO89/04028	5/5/89
2.	PCT/US88/03622	10/18/88	WO89/04027	5/5/89
3.	PCT/US88/03621	10/18/88	WO89/04026	5/5/89
4.	PCT/US88/03616	10/18/88	WO89/04023	5/5/89
5.	PCT/US88/03617	10/18/88	WO89/04024	5/5/89
6.	PCT/US88/03618	10/18/88	WO85/04025	5/5/89
7.	PCT/US88/03626	10/18/88	WO89/07872	8/24/89
8.	PCT/US88/03625	10/18/88	WO89/07813	8/24/89
9.	PCT/US88/03620	10/18/88	WO89/07811	8/24/89
10.	PCT/US88/03624	10/18/88	WO89/07812	8/24/89
11.	PCT/US88/03614	10/18/88	WO39/07809	8/24/89
12.	PCT/US88/03613	10/18/88	WO89/07808	8/24/89
13.	PCT/US88/03528	10/18/88	WO89/07873	8/24/89
14.	PCT/US88/03619	10/18/88	WO89/07871	8/24/89
15.	PCT/US88/03615	10/18/88	WO89/0781·	8/24/89

TELECORD SOUTH KOREAN CASES

So. Korean Ser. No.	So. Korean Fil. Date	So. Korean Patent No.	Issue Date
89-701120	6/20/89		
(Title: Paging Receiver)			
89-701121	6/20/89		
(Title: Paging Receiver)			
89-701939	10/22/89		
(Title: Paging System)			
89-701938	10/22/89		
(Title: Paging System With Dynamically Programmable Reception Frequencies)			
89-701940	10/22/89		
(Title: Paging System For Entering Pages By Local Telephone Call)			

TELEFIND REPUBLIC OF CHINA (TAIWAN) CASES

ROC Ser. No.	ROC Fil. Date	ROC Patent No.	Issue Date
77100833	2/10/88		

(Title: Paging Receiver with Dynamically Programmable Reception Frequencies and for Receiving Pages From Analog or Digital Paging Transmitters

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COMPUTER LEASCO, INC.,

Plaintiff,

v. Case No. 90-CV-60007-AA

TELEFIND CORPORATION, Hon. George La Plata

Defendant.

NTP, INC.,

Applicant for Intervention

_____/

HYMAN AND LIPPITT, P.C.
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Thomas R. Stevick (P44539)
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Ann Arbor, MI 48108

_____/

NTP, INC.'S MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

NTP, Inc. ("NTP"), by its attorneys Dykema Gossett,

hereby moves for entry of a Temporary Restraining Order and Order to Show Cause, in the form of Orders attached hereto. This motion is based upon the accompanying Brief, and Affidavits of Thomas J. Campana, Jr. and Jonathan D. Rowe, together with exhibits attached thereto and all other pleadings in this case.

Jonathan D. Rowe (P35384)
Thomas R. Stevick (P44539)
DYKEMA GOSSETT
Attorneys for
Intervenor NTP, Inc.
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(313) 747-7672 or 747-7675

Dated: February 16, 1993

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COMPUTER LEASCO, INC.,

Plaintiff,

v. Case No. 90-CV-60007-AA

TELEFIND CORPORATION, Hon. George La Plata

Defendant.

NTP, INC.,

Applicant for Intervention

_____/

HYMAN AND LIPPITT, P.C.
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DYKEMA GOSSETT
By: Jonathan D. Rowe (P35384)
Thomas R. Stevick (P44539)
Attorneys for Intervenor NTP, Inc.
315 E. Eisenhower Parkway
Suite 100
Ann Arbor, MI 48108

_____/

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

TO: Computer Leaseco, Inc., its agents, attorneys and representatives.

IT IS HEREBY ORDERED THAT:

(1) You shall refrain from any use of the Court's February 5, 1993 Order in the captioned case to claim any ownership rights regarding the patent applications and intellectual properties developed by Thomas J. Campana, Jr., known as the "B Technology", including, without limitation, any presentation of the Court's February 5, 1993 Order to the United States Office of Patents and Trademarks, until such time as this Order is dissolved;

(2) If you have already obtained access to the patent applications known as the "B Technology" prior to receiving this Temporary Restraining Order, you shall immediately return all copies to counsel for NTP, Inc., together with a signed, sworn representation that you have neither retained nor distributed to third parties any copies thereof;

(3) You shall appear before this Court on _____ at _____, or as soon thereafter as counsel may be heard, and show cause why a Preliminary Injunction should not be issued.

_____
Hon. George LaPlata
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COMPUTER LEASCO, INC.,

Plaintiff,

v.

Case No. 90-CV-60007-AA

TELEFIND CORPORATION,

Hon. George La Plata

Defendant.

NTP, INC.,

Applicant for Intervention

_____/

HYMAN AND LIPPITT, P.C.
By: Norman L. Lippitt (P16716)
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BRIEF IN SUPPORT OF NTP, INC.'S MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

NTP, Inc. ("NTP"), by its attorneys Dykema Gossett,

submits this Brief in support of its Motion for Temporary Restraining Order and Order to Show Cause. NTP's Motion to Intervene and Motion to Stay Order, filed on February 11, 1993, are already pending before this Court.

STATEMENT OF FACTS

On February 5, 1993, this Court entered an Order in the captioned case which by its terms became effective on February 12, 1993. This Order is attached as Exhibit 1 to the Affidavit of Jonathan D. Rowe and will be referred to hereafter as "the Order."

The Order awards Computer Leaseco, Inc. ("Leaseco") ownership rights in certain specified intellectual property, including four patent applications developed by Thomas Campana, Jr. and known as the "B Technology." The Order carefully limits the rights granted to Leaseco "to the extent of Defendant [Telefind Corporation]'s ownership."

Unfortunately, the Order also includes an arguably conflicting provision which states in pertinent part:

> The intellectual properties including, without limitation, all ... patent applications as described in Exhibit A ... are awarded to Plaintiff in which Defendant as of the date of this Order has any ownership interest. Said intellectual properties specifically includes, without limitation all technologies, inventions, patents or patent applications ... conceived, invented or developed by Thomas J. Campana, Jr. ....

This provision could be read to state that "all patent applications conceived by Thomas J. Campana, Jr." are "awarded

to plaintiff" -- even though NTP believes that such as result was not intended by the Court.

NTP is the true owner of the "B Technology." See Affidavit of Thomas J. Campana, Jr. If any person other than NTP or its authorized agents were to use the Order to gain access to the four patent applications at the patent office, NTP would suffer serious and irreparable injury. For example, an unauthorized person gaining access to the patent applications could make photocopies of the information constituting the B Technology, and could then offer that information for sale to innocent third parties unaware of the improper means used to obtain the information.

Because NTP doubts that it was the Court's intention to render any decision on the ownership of the patent's application, NTP moved to intervene in this case on February 11, 1993, for the limited purpose of moving to stay the Order until a new clarification. NTP filed a Motion to Stay the Order on February 11, 1993. Undersigned counsel has contacted counsel of record for Leaseco, who advises that Leaseco will not oppose the motion to intervene, but will oppose the motion for stay.

Meanwhile, on February 15, 1993, Leaseco's patent counsel, Donald L. Wenskay, wrote to NTP's patent counsel, William H. Wright, in a letter attached as Exhibit 2 to the Affidavit of Jonathan D. Rowe. In the letter, Mr. Wenskay demands that Mr. Wright renounce his power of attorney for the Campana patent applications owned by NTP, based upon the

Order. Mr. Wenskay further indicates his intention to present the Order "promptly" to the United States Patent & Trademark Office to revoke Mr. Wright's power of attorney if Mr. Wright does not renounce it.

Attached as Exhibit 3 to the Affidavit of Jonathan D. Rowe is a letter from Mr. Wright indicating that he will not renounce his power of attorney, because of his understanding that the Court did not intend to resolve any ownership issues between Leaseco and third parties such as NTP. Hence there is a present and immediate danger that Mr. Wenskay will attempt to use the Order to gain access improperly to the patent applications that set forth the B Technology.

Leaseco is in fact well aware that it has no valid claim to ownership of the B Technology. Leaseco's claim to the B Technology is predicated on two false premises: (1) the B Technology is owned by Telefind, and (2) Leaseco has superior lien rights to enable it to stand in Telefind's place as the owner of the B Technology. In fact, as Leaseco knows, the B Technology is owned by NTP, not Leaseco, see Affidavit of Thomas J. Campana; and in any event, Leaseco knows that it has only the third or fourth priority among the lien claimants to Telefind's intellectual property.

Leaseco has been involved in litigation in the United States Bankruptcy Court for the Southern District of Florida over the lien rights to properties owned by Telefind. United States Bankruptcy Judge Bernice Donald has ruled that the superior lien claimant for Telefind's intellectual property is

Antonelli, Terry, Stout & Wands ("Antonelli"). See Exhibit D to Affidavit of Jonathan D. Rowe, the October 19th, 1992 Order of Judge Donald at p 2 ("Antonelli has a lien on the intellectual property of Telefind Corporation ... which is senior to the liens of Computer Leaseco, Inc. and Flatt Morris Associates, S.A."). Leaseco has also conceded in that litigation that the interests of Delta Satellite Corporation ("Delta") are superior to Leaseco's. See Exhibit E to Affidavit of Jonathan D. Rowe, the June 26, 1992 Brief of Computer Leaseco in Support of its Motion for Summary Judgment in the Florida Bankruptcy Court, at p 8. The issue of priority between Leaseco and Flatt Morris Associates has not yet been resolved in the Florida Bankruptcy Court, and hence it is undetermined whether Leaseco stands third or fourth in line for Telefind's intellectual property.

ARGUMENT

A temporary restraining order is immediately necessary to preserve the status quo and to prevent Mr. Wenskay or other agents of Leaseco from seeking access to NTP's patent applications. The standards for such provisional equitable relief are well established. The Court has discretion to grant such relief to preserve the status quo and to prevent irreparable injury for which there is no adequate remedy at law. Pan American World Airways v Flight Engineers Int'l Ass'n, 306 F2d 840, 842 (2d Cir. 1962).

In this case, the "status quo" prior to the Order was that NTP owns the patent applications, as reflected in the correspondence between Mr. Wenskay and Mr. Wright. The Order

constitutes an adjudication of rights between Leaseco and Telefind, but does not involve an adjudication of NTP's rights; and hence the status quo continues to be that NTP owns the patent applications. NTP's ownership rights should be preserved by means of a temporary restraining order unless and until Leaseco presents persuasive evidence to the Court to show that it is the rightful owner of the B Technology.

Of course, Leaseco has little likelihood of success on the merits, because the Florida Bankruptcy Court's Order demonstrates that Leaseco's interest in the Telefind intellectual property is subordinate at least to the interests of Antonelli and Delta, and perhaps to Flatt Morris as well. But in any event, NTP need not demonstrate "likelihood of success on the merits" at this juncture, because the test for issuance of a temporary restraining order is simply maintenance of the status quo. See Palmigiano v Travisono, 317 F Supp 776, 787 (D.R.I. 1970).

Since NTP will suffer irreparable injury if Leaseco or its agents gains access to the Campana patent applications, NTP respectfully requests that this Court enter a Temporary Restraining Order and Order to Show Cause.

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Dated: February 16, 1993